1 THE HONORABLE RICHARD A. JONES 2 3 4 5 6 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 7 AT SEATTLE 8 ABDIQAFAR WAGAFE, et al., on behalf No. 2:17-cv-00094-RAJ 9 of themselves and others similarly situated, JOINT SUBMISSION REGARDING 10 Plaintiffs, SCOPE AND ANTICIPATED VOLUME OF IN CAMERA REVIEW 11 v. 12 DONALD TRUMP, President of the United States, et al., 13 Defendants. 14 15 16 17 On July 22, 2020, the Court held a telephonic conference with the parties to discuss the 18 outstanding discovery disputes detailed in the parties' supplemental briefings (Dkts. 378 and 19 383). The center of the dispute between the parties are redactions in the Named Plaintiffs' 20 A-Files. Plaintiffs also dispute redactions in 31 policy and training documents withheld under the 21 law enforcement and deliberative process privileges. Having considered the parties' briefs, the 22 23 Court ordered that the parties meet and confer, narrow the scope of the A-File in camera review, 24 and make a joint submission describing the scope and anticipated volume of potential in camera 25 review. See Dkt. 392. 26 U.S. DEPARTMENT OF JUSTICE JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA CIVIL DIVISION, OIL REVIEW (No. 2:17-cv-00094-RAJ) - 1 P.O. BOX 878 BEN FRANKLIN STATION WASHINGTON, DC 20044

TELEPHONE: (202) 598-2445

To illustrate the scope and anticipated volume of the Court's *in camera* review, this Joint Submission describes: (A) Defendants' proposal for producing the A-Files and challenged policy/training documents; (B) the volume of challenged redactions in the A-Files; and (C) the volume of challenged redactions in the policy and training documents. Section (B) includes Tables outlining both the full list of Plaintiffs' challenged redactions in the A-Files and Plaintiffs' narrower sample for *in camera* review. Section (C) similarly includes Tables outlining both the full list of Plaintiffs' challenged redactions in the policy and training documents and Plaintiffs' narrower sample for *in camera* review.

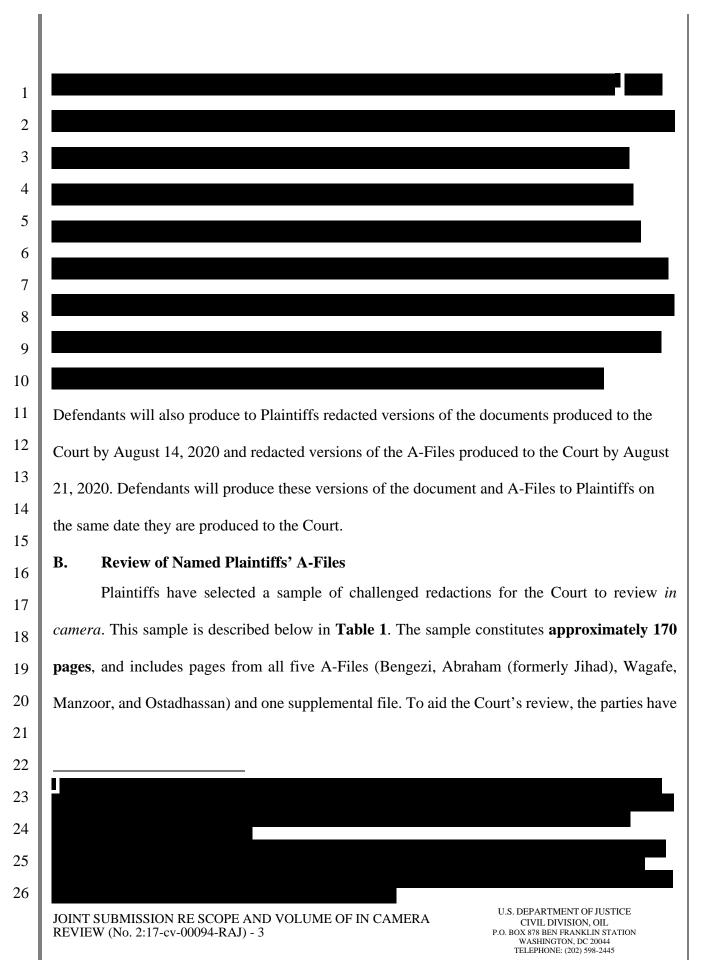
A. Production of A-Files and Policy/Training Documents for In Camera Review

After meeting and conferring, the parties agree that the most efficient way to facilitate the Court's review of a sample of redactions contained in the A-Files and policy/training documents—while still allowing the Court to view the surrounding pages if needed for context—is to produce the complete Named Plaintiffs' A-Files and complete versions of seven of the 31 challenged policy documents. Defendants will produce the seven documents, five A-Files, and one supplemental file to the Court in hard copy with transparent redactions to facilitate the Court's review. Defendants will place tabs in the documents and A-Files to indicate the first page of each set of challenged redactions identified as part of the proposed sample for *in camera* review, below (Tables 1 and 3).

Defendants propose this timeline for producing the A-Files and documents to the Court:

- Seven documents (Table 3): No later than August 14, 2020
- A-Files (Tables 1 and 2): No later than August 21, 2020

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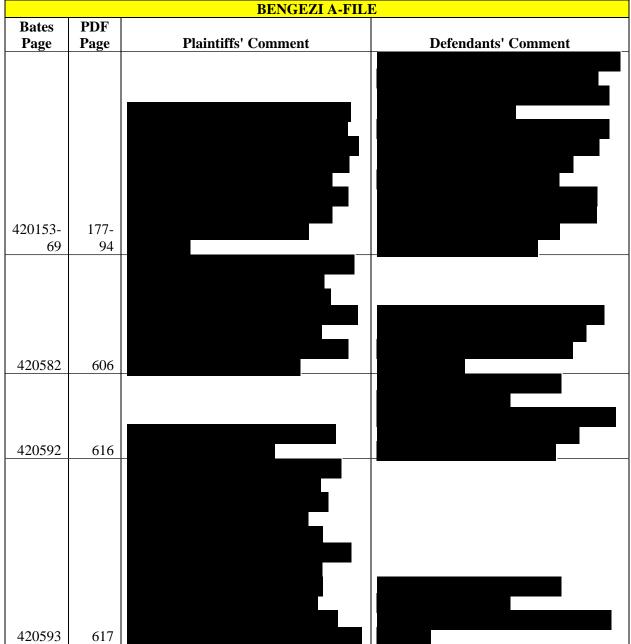
JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA REVIEW (No. 2:17-cv-00094-RAJ) - 4

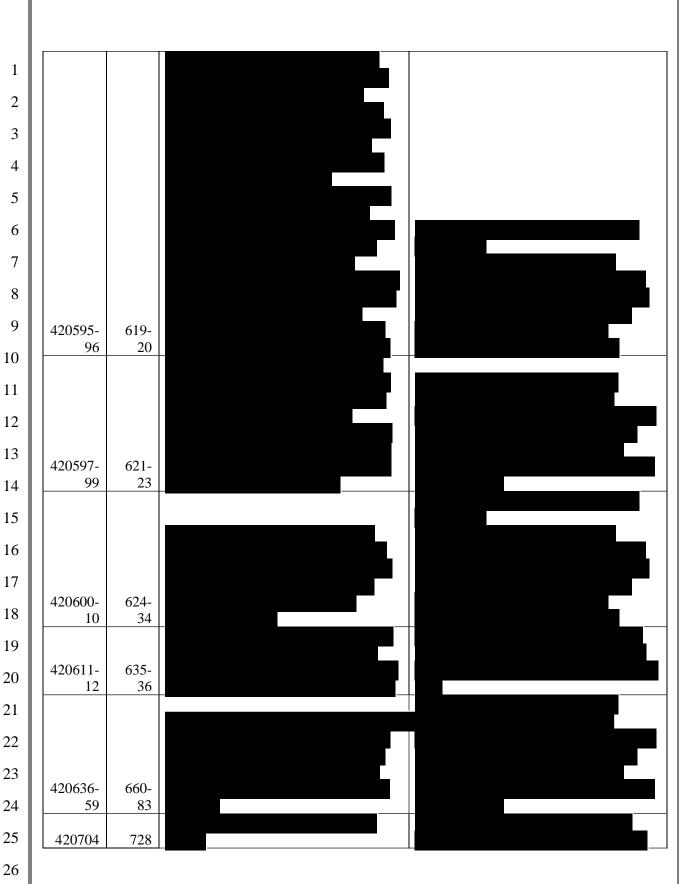
U.S. DEPARTMENT OF JUSTICE CIVIL DIVISION, OIL P.O. BOX 878 BEN FRANKLIN STATION

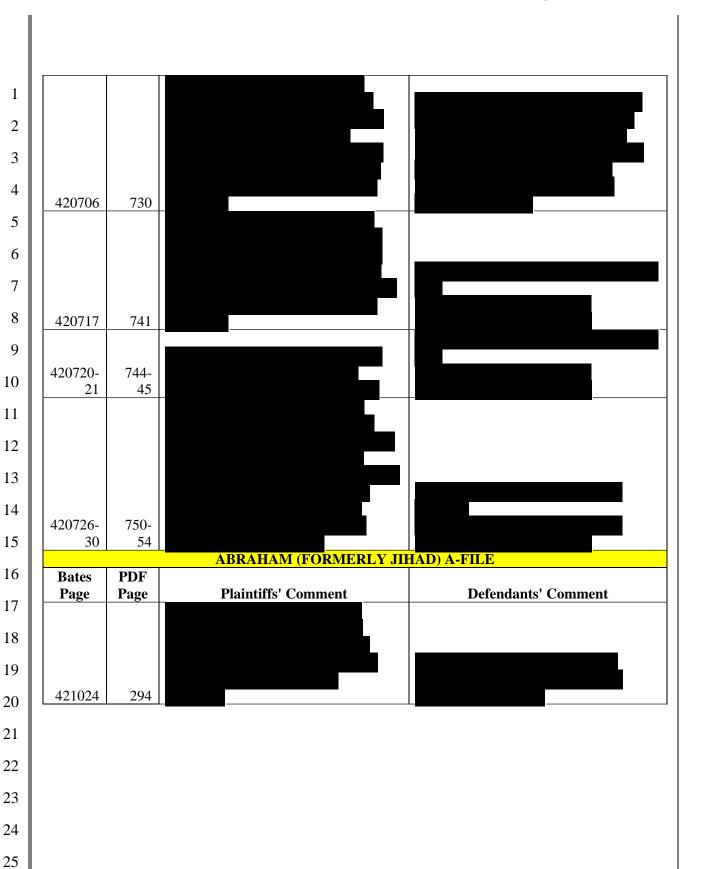
WASHINGTON, DC 20044 TELEPHONE: (202) 598-2445

each included a brief comment for each challenged redaction (or set of redactions) in Table 1. The full list of pages with redactions Plaintiffs challenge is provided for the Court's reference later in this Submission, in Table 2.

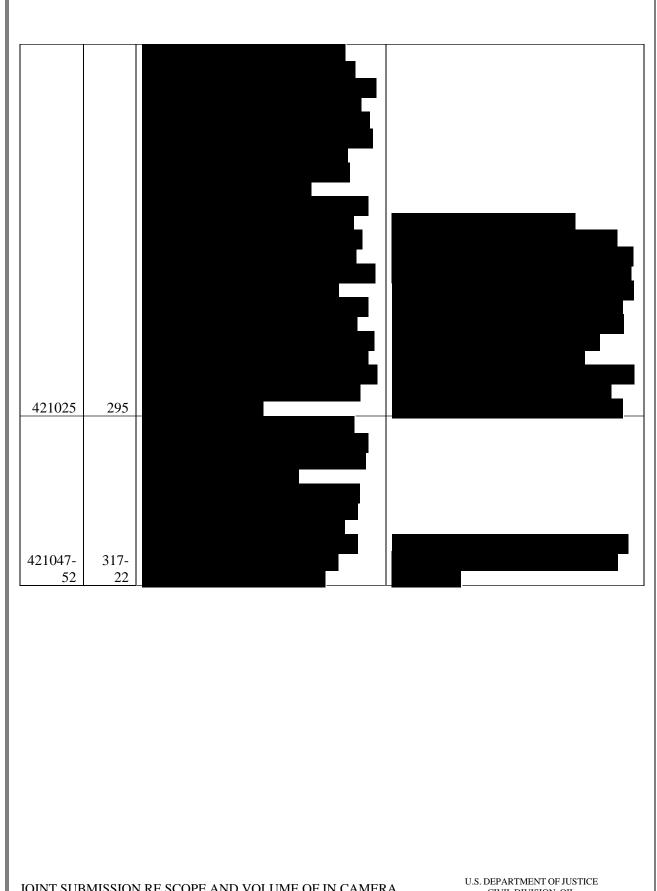
Table 1: Plaintiffs' Sample A-File Redactions for *In Camera* Review







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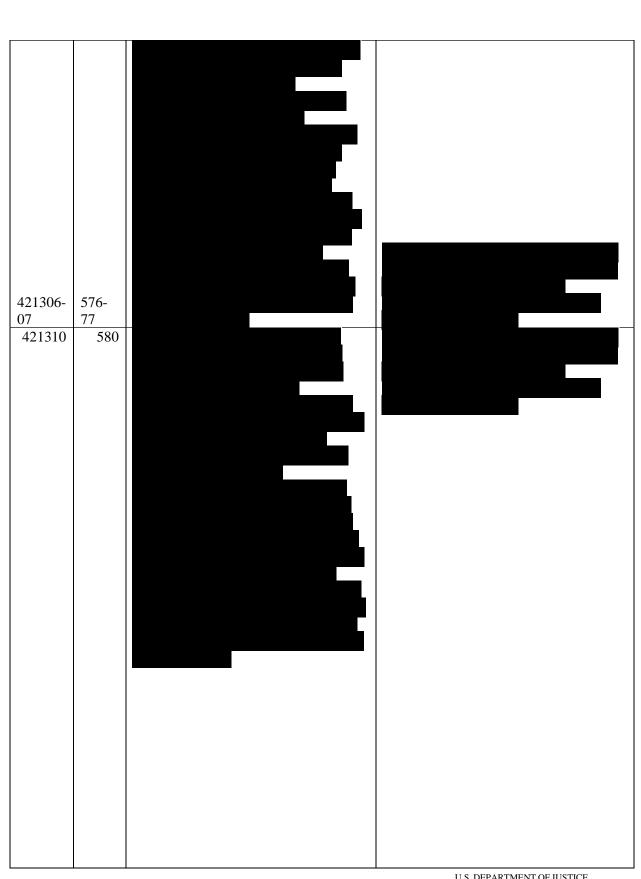


JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA REVIEW (No. $2{:}17\hbox{-cv-}00094\hbox{-RAJ})$ - 7

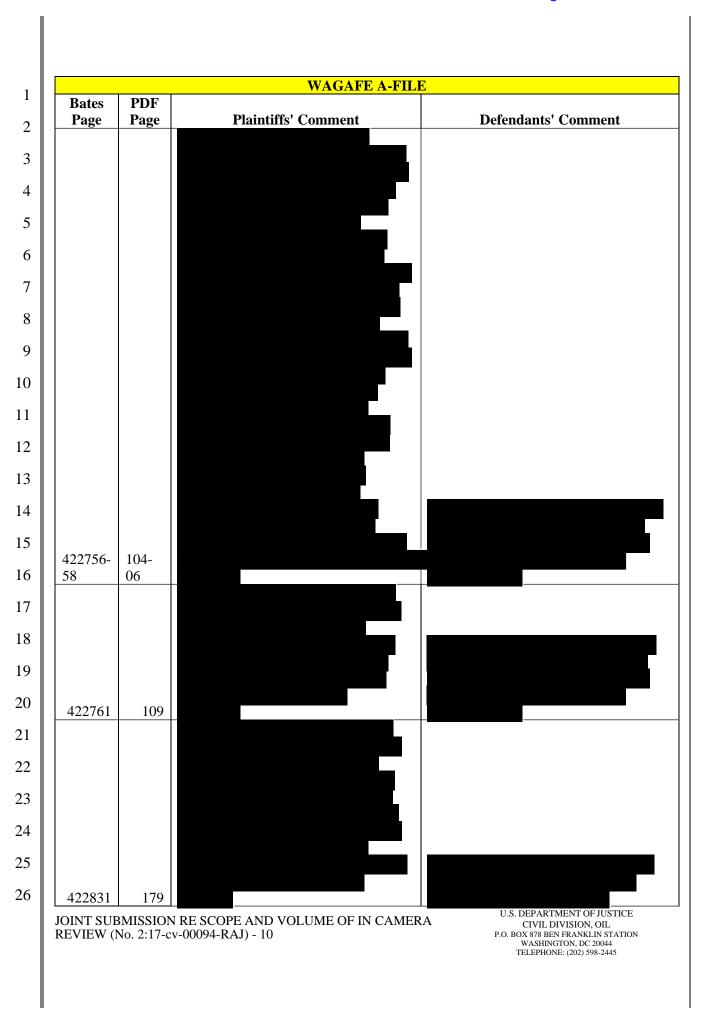


REVIEW (No. 2:17-cv-00094-RAJ) - 8

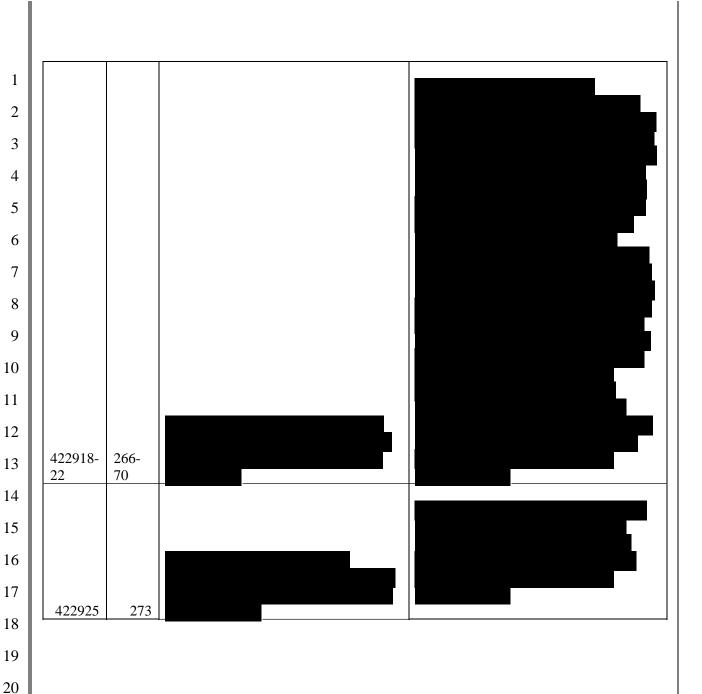
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JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA REVIEW (No. 2:17-cv-00094-RAJ) - 9







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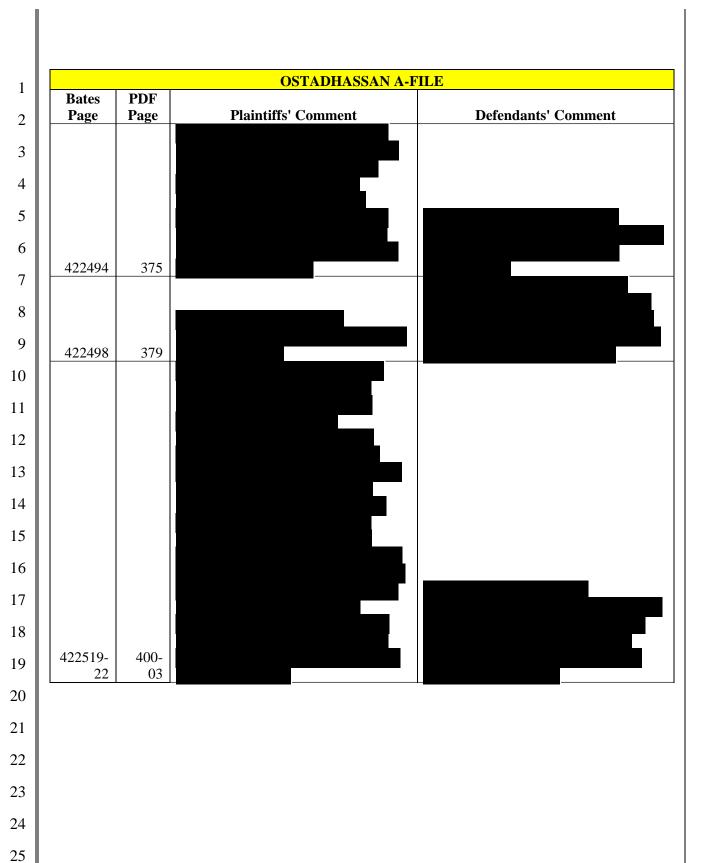
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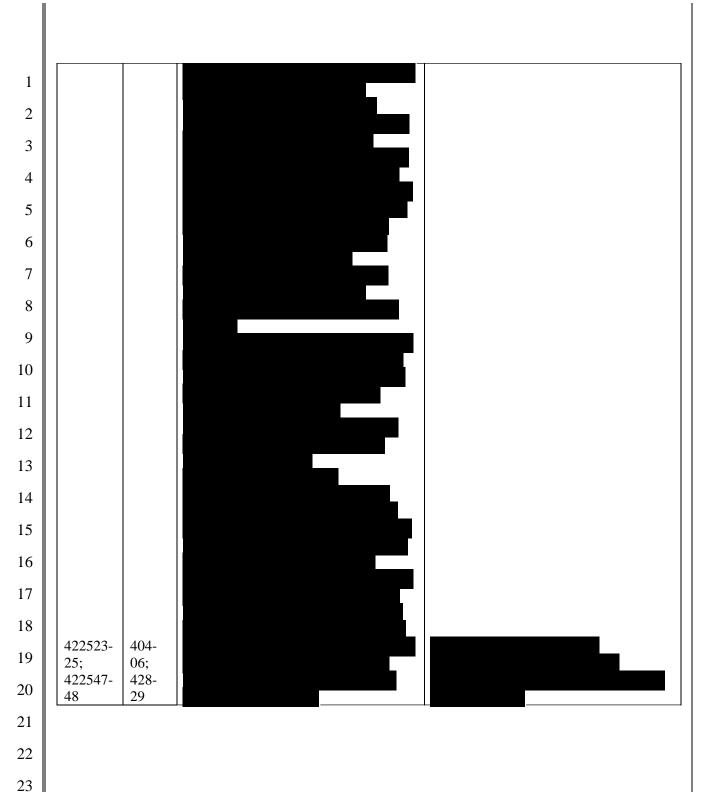
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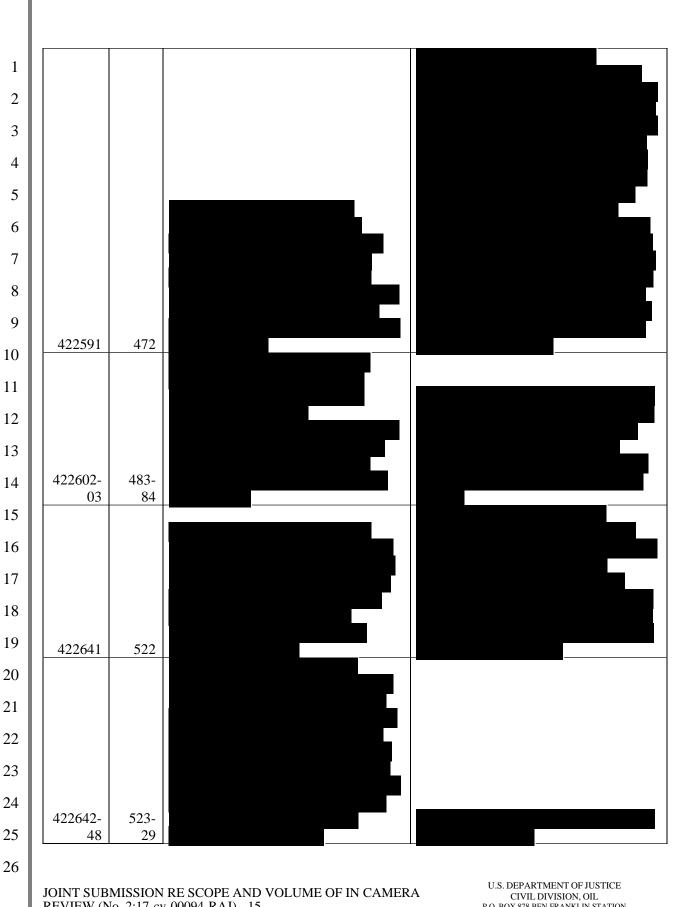




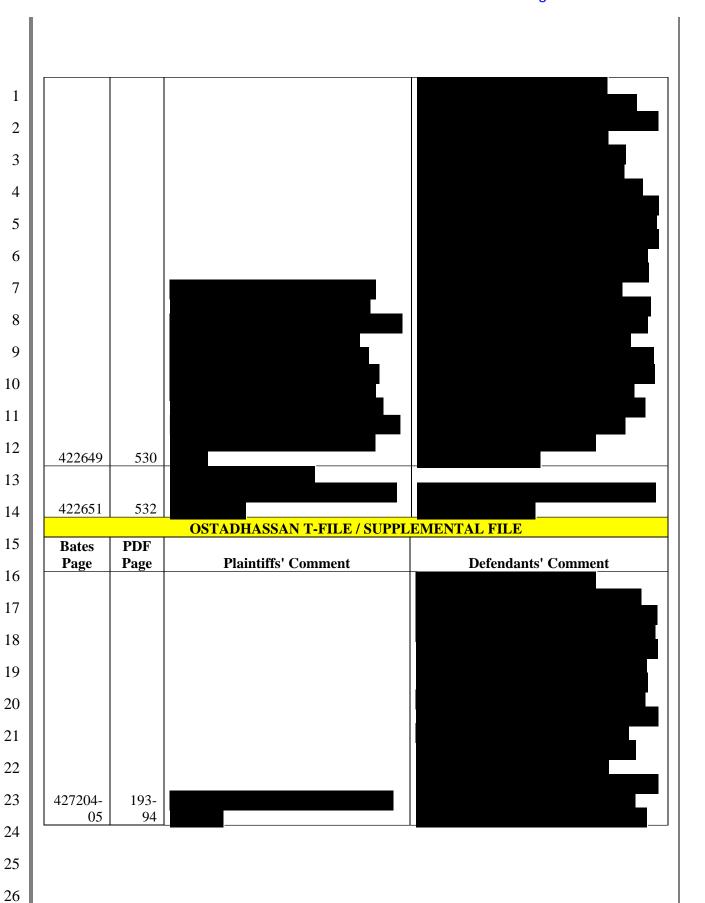
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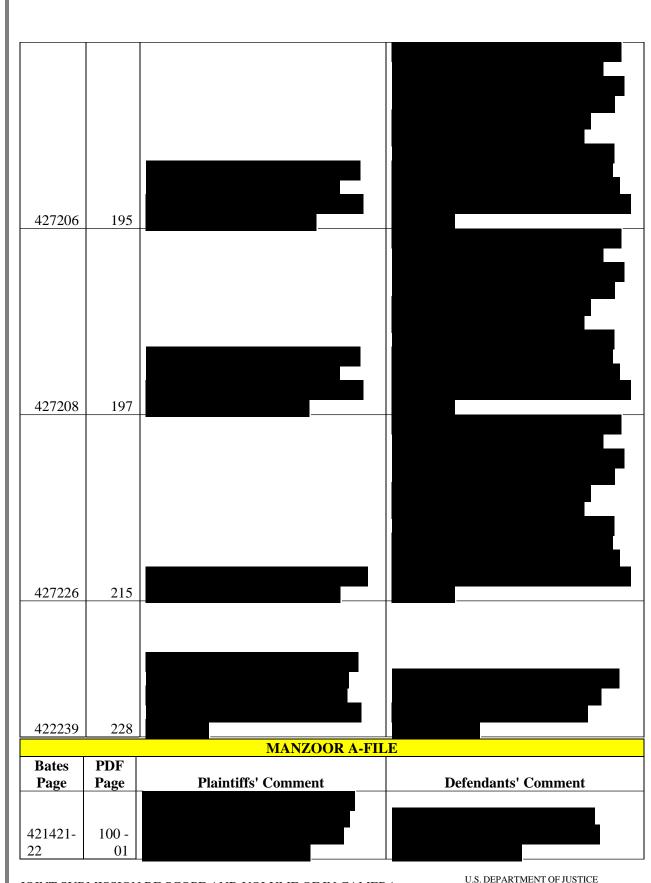
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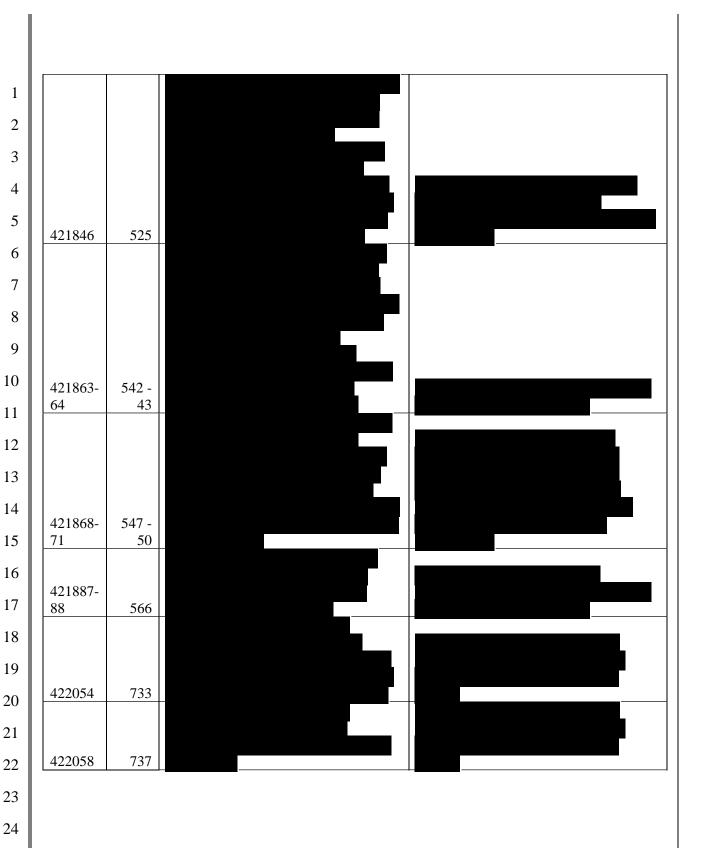


REVIEW (No. 2:17-cv-00094-RAJ) - 15



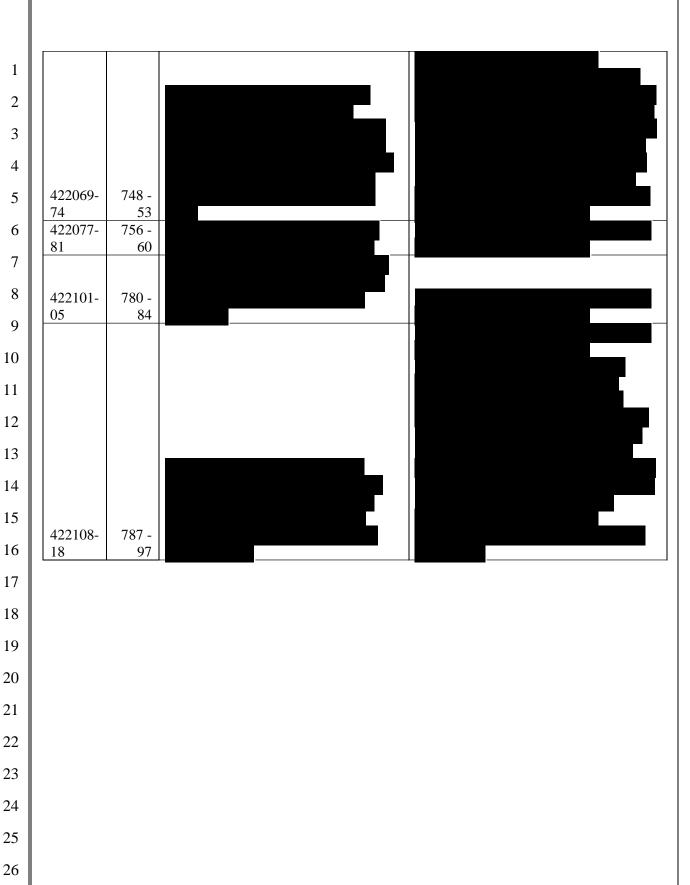


JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA REVIEW (No. $2{:}17\hbox{-cv-}00094\hbox{-RAJ})$ - 17



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For the Court's reference, below in **Table 2** is a list of all redactions Plaintiffs challenge in

Named Plaintiffs' A-Files:

Table 2: Full List of All Challenged A-File Redactions

Bengezi		
Bates Page	PDF Page	
420153-69	177-94	
420211	235	
420552	576	
420662-66	586-90	
420571	595	
420754	598	
420582	606	
420592	616	
420593	617	
420594	618	
420595-96	619-20	
420597-99	621-23	
420600-10	624-34	
420611-12	635-36	
420613-24	637-48	
420625-26	649-50	
420627	651	
420635	659	
420636-59	660-83	
420704	728	
420705	729	
420706	730	
420711-15	735-39	
420717	741	
420720-21	744-45	
420722	746	
420723	747	
420724	748	
420726-30	750-54	

Abraham (formerly				
Jihad)				
Bates Page	PDF Page			
420907	177			
420907	177			
420907	177			
420910	180			
420924-25	194-95			
420949	219			
420949	219			
420949	219			
420950	220			
420964	224			
420968	228			
420986-94	256-64			
420996	266			
420999	269			
421013-15	283-85			
421019	289			
421020-22	290-92			
421024	294			
421025	295			
421028-39	298-309			
421040	310			
421047-52	317-22			
421055	325			
421057	327			
421067-68	337-38			
421071-106	341-76			
421112-15	382-85			
421116	386			
421120	390			
421298-99	568-67			
421306-07	576-77			
421310	580			
421313	583			
421317	587			
421320-21	590-91			

Wagafe		
Bates Page	PDF Page	
422744	92	
422754	102	
422756-58	104-06	
422761	109	
422791	139	
422810	158	
422815	163	
422819-24	167-72	
422825	173	
422825	173	
422827-28	175-76	
422831	179	
422832	180	
422918-22	266-70	
422925	273	

 $Continued\ on\ next\ page...$

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Ostadhass	
Bates Page	PDF Page
422256	137
422485	366
422486	367
422494	375
422498	379
422515-16	396-97
422517	398
422519-22	400-03
422523-25	404-06
422533-38	414-19
422547-48	428-29
422550	431
422552-53	433-34
422590	471
422591	472
422601	482
422602-03	483-84
422633-34	513-14
422639-40	520-21
422641	522
422642-48	523-29
422649	530
422651	532
Ostadhass	an T-File
(Supplemer	tal A-File)
Bates Page	PDF Page
427204-05	193-94
427205	194
427206	195
427208	197
427224	213
427225	214
427226	215
72/220	218
427229	

Manzoor				
Bates Page	PDF Page			
421406	85			
421415	94			
421421-22	100 -01			
421443-44	122 -23			
421445-50	124 -29			
421454-56	133 -35			
421487-93	166 -72			
421504	183			
421505-06	184 -85			
421525-27	204 -06			
421529-34	208 -13			
421539	218			
421540	219			
421541-56	220 -35			
421567	246			
421598	277			
421599-600	278 -79			
421619-20	298 -99			
421633	312			
421634	313			
421635-50	314 -29			
421661	340			
421796	475			
421846	525			
421848	527			
421851-52	530 -31			
421863-64	542 -43			
421868-71	547 -50			
421872-74	551 -53			
421887-88	566			
421895-96	574 -75			
421898-99	577 -78			
421904-06	583 -85			
421938-41	617 -20			
421947-49	626 -28			
421950-70	629 -49			
421978	657			
421987-94	666 -73			
422034-38	713 -17			
422041-42	720 -21			
422043	722			

422044	723
422046	725
422049	728
422051-53	730 -32
422054	733
422056-57	735 -36
422058	737
422059-61	738 -40
422062-68	741 -47
422069-74	748 -53
422075	754
422076	755
422077-81	756 -60
422082-83	761 -62
422084-89	763 -68
422098	777
422099	778
422100	779
422101-05	780 -84
422108-18	787 -97
422119	798

C. Review of Policy/Training Documents

In addition to the A-Files, Plaintiffs challenge redactions appearing in 31 USCIS and DHS policy and training documents in which Defendants invoke the law enforcement and deliberative process privileges. For the Court's *in camera* review, the parties have selected the following seven documents, described in further detail in **Table 3** below, as a sample representative of the information at issue:

- **DEF-00044548** at PDF Pages 65, 74-78, 84, 89-91, and 114.
- **DEF-00116759** at PDF Pages 113, 122, 129-31, 134, 137, and 176.
- **DEF-00429220** at PDF Pages 31, 99, 103, 106-08, 110-112, 118, 124, 136-141, 153, 166-67, 191, 193-94, 211, 224, and 244-49.
- **DEF-0074376** at PDF Pages 2, 3, 5, 6, 7, and 8.
- **DEF-00052177** at PDF Pages 79-80.
- **DEF-00044891** at PDF Pages 7, 10-18.
- **DEF-00262796** at PDF Pages 1-3.

Defendants note that the first six documents identified above are USCIS policy and training documents, and the seventh document is a DHS policy document. The redactions identified for the Court's *in camera* review in these documents appear in **71 pages**. Because Defendants have informally re-produced many of these documents without Bates numbers, the parties have identified the pages on which the challenged redactions actually appear in these documents by PDF page number. A full list of the disputed redactions in the 31 policy and training documents at issue is included for the Court's reference later in this Submission, in Table 4.

Table 3: Sample Documents for *In Camera* Review

DEF-00044548				
Bates PDF				
Page	Page	Plaintiffs' Comment	Defendants' Comment	
		This redaction identifies information USCIS officers are to provide to the Terrorist Screening Center in order to determine whether an applicant is a match to a watchlisted individual. As		
	65	such, it sets forth USCIS policies, procedures, and/or guidance that must be disclosed.	Withheld information describes communication with a third agency.	
		74 – Basic descriptive material related to the FBI's Name Check program, or information that is already public, cannot be withheld. Similarly, USCIS policy, guidance, or procedures on how to handle Name Check responses must be disclosed. 76-77 – USCIS policy regarding FBI investigations, and how USCIS references those investigations in determining whether "NS Indicators" are present, must be disclosed. 78 - USCIS policy regarding FBI investigations and how to interpret Letterhead Memoranda (LHMs) must	74 - Withheld info discusses types of responses from name check 76 - Withheld info discusses FBI's classification of their investigations, as subtitle suggests 77 - Withheld info discusses reasons FBI may close an investigation, as title and subtitle suggests 78 - Withheld info describes statements	
	74-78	be disclosed. Redactions appear to conceal examples of what USCIS considers "NS Indicators." USCIS policies, procedures, and guidance, including USCIS guidance on what constitutes a national security concern, cannot be withheld merely because they implicate another agency.	withheld information discusses third agency TECS/IBIS hit examples, as slide title and subtitle indicate.	
	89-90	Redactions appear to conceal descriptive or other non-privileged info about the National Targeting Center (NTC) and internal USCIS procedures for how to resolve information from NTC.	Withheld information discusses third agency TECS/IBIS records and sensitive law enforcement techniques and methods.	

1			Redactions appear to conceal descriptive or other non-privileged info	Withheld information discusses third
2			about the National Targeting Center (NTC) and internal USCIS procedures	agency information describing law enforcement sensitive codes created in
3		91	for how to resolve information from NTC.	third agency databases to document law enforcement encounters.
4		71	The redacted material appears to identify the names of databases USCIS	emoreoment encounters.
5			queries. Such names are not privileged,	Withheld information is third agency
6		114	nor is the fact that USCIS queries them, as that is an internal process.	database information that is not publicly available.
U		117	DEF-00116759	avanaore.
7	Bates	PDF		
	Page	Page	Plaintiffs' Comment	Defendants' Comment
8			This block redaction pertains to USCIS	
9			training given to USCIS officers about how USCIS officers interact with third	LE: This discusses the content of communication between USCIS and
10			agencies when USCIS officers vet	third agency regarding third agency
10			applicants. As such, it sets forth USCIS	information. Disclosing it would
11		113	policies, procedures, and/or guidance that must be disclosed.	disclose types of information held by third agencies.
12			This block redaction pertains to USCIS training given to USCIS officers about	Withheld information discusses vetting
13			how USCIS officers interact with third agencies when USCIS officers vet	by USCIS, which may include external vetting implicating third agency
14			applicants. As such, it sets forth USCIS	information. Scenarios that are redacted
15		122	policies, procedures, and/or guidance that must be disclosed.	would reveal nature of third agency investigations.
16			These redactions pertain to USCIS training given to USCIS officers about	
17			what appears to be USCIS internal policy. As such, they set forth USCIS	
18		129	policies, procedures, and/or guidance that must be disclosed.	Withheld info is codes and information concerning codes.
19		•		,
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1			Withheld info discusses external vetting
1			of certain third agency
2			information/communication with third
_			agency re third agency information.
3			These targeted redactions were intended
			to provide plaintiffs with as much
4			information as possible as relates to
_			hypotheticals. The limited remaining
5			redactions similarly redact third agencies sources of information in order to protect
6			security database codes and additional
U			information about the types of
7		These redactions pertain to USCIS	investigations an individual agency may
,		training given to USCIS officers about	conduct as relates to a national security
8		how those USCIS officers interact with	or potential national security
		third agencies when USCIS officers vet	investigation. This information was
9		applicants, including what questions	described in Emrich declaration at Dkt.
		they are supposed to ask third agencies.	266-1, para 22. The redacted question in
10		As such, they set forth USCIS policies,	the comments includes TECS codes and
1.1		procedures, and/or guidance that must	additional information about the nature
11	130	be disclosed.	of third agency investigations.
12		These redactions pertain to USCIS	
12		training given to USCIS officers about	
13		how those USCIS officers interact with	
		third agencies when USCIS officers vet	Withheld info discusses external vetting
14		applicants. As such, they set forth	of certain third agency
		USCIS policies, procedures, and/or	information/communication with third
15	131	guidance that must be disclosed.	agency re third agency information.
16		These redactions pertain to USCIS	Widt alling lives and and and an
16		training given to USCIS officers about how those USCIS officers vet	Withheld info discusses external vetting
17		applicants, including how USCIS	of certain third agency information/communication with third
- /		officers interact with third agencies	agency re third agency information. The
18		when USCIS officers vet applicants. As	specific redaction is of a TECS code and
		such, they set forth USCIS policies,	then a description of a specific type of
19		procedures, and/or guidance that must	third agency investigation that may lead
20	134		to that code.
20		This redaction pertains to USCIS	
21		training given to USCIS officers about	
21		how those USCIS officers interact with	
22		third agencies when USCIS officers vet	
44		applicants, including policy guidance	
23		on who USCIS does not call when	Withheld information discusses external
		conducting this vetting. As such, it sets	vetting of certain third agency
24		forth USCIS policies, procedures,	information/communication with third
	137	and/or guidance that must be disclosed.	agency re third agency information.
25			

		This redaction pertains to USCIS	
		training given to USCIS officers about	
		how those USCIS officers interact with	Withheld info is sample questions to ask
		third agencies when USCIS officers vet	of third agencies in external vetting. This
		applicants. As such, it sets forth USCIS	is a communication with a third agency
		policies, procedures, and/or guidance	revealing the actions of and information
	176	that must be disclosed.	held by a third agency.
		DEF-00429220	
Bates	PDF	77. A . 1800 A . C	
Page	Page	Plaintiffs' Comment	Defendants' Comment
		These redactions appear to relate to	
		USCIS's use of systems such as the	
		Automated Targeting System. That use	
		is publicly known and therefore not	
		privileged. <i>See</i> , <i>e.g.</i> , Privacy Impact Assessment for USCIS's Fraud	
		Detection and National Security Data	
		System (FDNS-DS), DHS/USCIS/PIA-	
		013(a), May 18, 2016 at 37, App'x D,	
		available at https://www.dhs.gov/sites/	
		default/files/publications/privacy-pia-	
		uscis-fdnsds-november2017.pdf. This	
		content also appears to pertain to	
		USCIS's internal processes and	
		procedures for the use of such systems.	
		The external systems are incorporated	
		into USCIS's automated system checks,	
		which the unredacted context indicates	Withheld information describes a feature
		are more common as USICS moves to a	of TECS query functions and capabilities
	31	paperless adjudication process.	of the TECS system
		This block redaction appears to conceal	
		USCIS procedures for non-KST	
		concerns, or as the document indicates,	
		"Other NS Hits." Although the content	
		may implicate TECS, it delineates	
		USCIS policy and procedures on how	
		to address national security concerns	Withheld information describes types of
	99	and is non-privileged.	lookouts/hits in TECS
		Inappropriate block redaction that	
		appears to conceal descriptive or other	Withheld information discusses
		non-privileged info about the National	procedures for handling certain types of
		Targeting Center (NTC) and internal	NTC information regarding certain
	100	USCIS procedures for how to resolve	targeting procedures, which is not
	103	information from NTC.	publicly available.
		The content under these significant	
		block redactions appears to set forth	Widt discount P
	100	USCIS policies and guidance for	Withheld information discusses
	106-	resolving "hits" and information about	terminology used in security check
	108	applicants.	responses and their meanings.

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1		Redacted content relates to what	
1		USCIS does, and does not, consider NS	
2		concerns, and therefore sets forth	
		USCIS policies and guidance.	***************************************
3		Additional redacted material pertains to	Withheld information discusses specific
	110	State Department systems (CLASS and	types of information generated by
4	110-	RPC) that are administrative, not law	security checks, including TECS
_	111	enforcement systems.	codes/terminology.
5		The content sets forth "Policy Relating to CCD" and is therefore USCIS policy	
6		and/or guidance. CCD – the State	
U		Department's Consular Consolidated	
7		Database – is an administrative, not law	
,		enforcement, database, and the State	Withheld information discusses certain
8		Department's law enforcement activity	types of third agency information/records
	112	is minimal.	that exist within TECS.
9		The redacted material relates to the	
1.0		National Security Entry-Exit	
10		Registration System (NSEERS), which	
11		targeted foreign nationals for	
1.1		registration based on their country of	
12		origin. NSEERS was administered by	
12		DHS, which discontinued the collection	
13		of information under the program	
		following significant criticism. See	
14		https://www.dhs.gov/dhs-removes-	
		designated-countries-nseers-	
15		registration-may-2011. USCIS's use	Withheld information discusses a third
16		of NSEERS data is a matter of USCIS	agency program and information
10		policy, and such content is directly	generated in security check results by
17	118	relevant to Plaintiffs' claims.	that program.
		The redacted content pertains to "CBP	
18		Vetting," which is apparently a	
		"service" that USCIS is utilizing, such	
19		that it maintains "USCIS CBP Vetting Administrators." USCIS policies,	
20		procedures, and guidance cannot be	
20		withheld merely because they implicate	Withheld information discusses third
21	124	another agency.	agency LE procedures.
∠1	127	anomer agency.	agency LL procedures.

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1		These block redactions appear to set	
1		forth USCIS policy and procedure on	
2		how to handle a "Positive Response" in	Withheld information discusses types
2		a Letterhead Memorandum (LHM).	third agency information in Name Check
3		LHMs are a significant source of	responses. It includes an example
3		national security concerns leading to	document. See Dkt. No. 341-7, Jung
4		CARRP processing, and USCIS policy	Decl., at para. 15-19; withheld
		related to LHMs is plainly relevant to	information also includes "terms that
5		Plaintiffs' claims. Additional redacted	may be contained in LHMs," as stated on
_		material pertains to "examples of	p. 140. Third agency law enforcement
6		indicators of an NS concern" contained	information that USCIS considers to
7	106	in LHMs. USCIS policy on what	indicate an NS concern is privileged.
7	136-	constitutes a national security concern	See Dkt. No. 320 at 6-7; see also Dkt.
8	141	is non-privileged.	No. 341-7, Jung Decl., at para. 15-19.
O		This block redaction appears to relate to	
9		USCIS policy on FBI Fingerprint Check Responses. USCIS policies,	This short beginning on a 151 answides
		procedures, and guidance cannot be	This chart, beginning on p. 151, provides "FBI Response[s]," and "Descriptions of
10		withheld merely because they implicate	FBI Response[s], and Descriptions of FBI Response[s]." <i>See</i> Dkt. No. 341-7,
	153	another agency.	Jung Decl., at para. 15-19.
11	133	These block redactions relate to	Jung Deen, at para. 13-17.
10		USCIS's use of the "Watch List	
12		Dataset." USCIS policies, procedures,	
13		and guidance cannot be withheld	
13		merely because they implicate another	
14		agency, and it is clear that USCIS	
•		automatically subjects watchlisted	
15		individuals to CARRP. Significant	
		information about USCIS's uses of the	
16		watchlisting system, moreover, is	
		already available publicly. See, e.g.,	
17		Privacy Impact Assessment for the	
10		Watchlist Service, DHS/ALL-027(e),	
18		May 5, 2016, available at https://	
19		www.dhs.gov/sites/default/files/	Withheld information discusses specific
1)	166-	publications/privacy-pia-027-E-uscis-	information/data maintained on the
20	167	wlsfdnsds-may2016.pdf.	Watchlist.
-		The redacted material relates to USCIS	XXV:11 11: 6
21		policy on FBI Name Check and how to	Withheld information discusses third
		address Name Check responses. USCIS	agency procedures and possible
22		policies, procedures, and guidance	responses generated by the FBI Name
22	191	cannot be withheld merely because they implicate another agency.	Check. See Dkt. No. 341-7, Jung Decl.,
23	171	implicate another agency.	at para. 15-19.

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1			These redactions appear to relate to	
1			USCIS's use of systems such as the	
2			Automated Targeting System. That use	
2			is publicly known and therefore not	
3			privileged. See, e.g., Privacy Impact	
			Assessment for USCIS's Fraud	
4			Detection and National Security Data	
			System (FDNS-DS), DHS/USCIS/PIA-	
5			013(a), May 18, 2016 at 37, App'x D,	
_			available at https://www.dhs.gov/sites/	
6			default/files/publications/privacy-pia-	
7			uscis-fdnsds-november2017.pdf. This	
7			content also appears to pertain to	
8			USCIS's internal processes and procedures for the use of such systems,	
		193-	which cannot be withheld merely	Withheld information is LE-sensitive
9		193-	because they implicate another agency.	analysis of third agency databases.
		174	USCIS guidance on what does not	analysis of time agency databases.
10			constitute a national security concern,	
			including "Non-NS/PS Offenses" and	Withheld information is terms that are
11			criminal history information, must be	used in TECS records related to criminal
12		211	disclosed.	history.
12				Withheld information describes third
13				agency information, specifically types of
13			The definition of a third agency referral	information that may exist in LHMs. See
14			sets forth USCIS guidance and must be	Dkt. No. 341-7, Jung Decl., at para. 15-
		224	disclosed.	19.
15			Block redactions should be unredacted	
			to the extent that they contain	
16			information that is factual or already	Withheld information discusses FBI
17			public. Similarly, USCIS policies,	Fingerprint Check and FBI Name Check
17			procedures, and guidance cannot be	responses and their meanings, as
18		244-	withheld merely because they implicate	indicated on pp. 244, 246. See Dkt. No.
10		249	another agency.	341-7, Jung Decl., at para. 15-19.
19	Bates	PDF	DEF-0074376	
	Page	Page	Plaintiffs' Comment	Defendants' Comment
20	1 agc	1 agc	Tiantins Comment	Withheld information relates to a
21				considered policy change that was not
21			The block redactions are factual	implemented, which is squarely within
22			background material, not weighing of	information the Court found privileged
		2	policy.	in its order at Dkt. 320.
23				Withheld information relates to a
			Block redactions that should be	considered policy change that was not
24			unredacted to the extent they provide	implemented, which is squarely within
2.			factual and non-deliberative	information the Court found privileged
25		3	information.	in its order at Dkt. 320.

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Block redactions that should be

factual and non-deliberative

information.

information.

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PDF

Page

Bates

Page

unredacted to the extent they provide

The block redactions appear to be

factual information about current

Block redactions that should be

factual and non-deliberative

capabilities not a policy deliberation

unredacted to the extent they provide

Plaintiffs' Comment

These block redactions pertain to

Withheld information relates to a

in its order at Dkt. 320.

in its order at Dkt. 320.

in its order at Dkt. 320.

considered policy change that was not

implemented, which is squarely within

information the Court found privileged

The withheld information relates to a considered policy change that was not

implemented, which is squarely within

information the Court found privileged

considered policy change that was not

implemented, which is squarely within

information the Court found privileged

Defendants' Comment

Special Interest Countries are not/were

Withheld information relates to a

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			Transfer of the second of the		
		USCIS training given to USCIS	not a USCIS designation. The slide		
		officers about "special interest	contains third agency information.		
		countries" in the context of USCIS	Withheld information does not discuss		
	79-80	officers vetting applicants.	USCIS policy/guidance.		
DEF-00044891					
Bates	PDF				
Page	Page	Plaintiffs' Comment	Defendants' Comment		
			See Jan. 27 Privilege Log. ² Further, these		
			redactions were described in detail in the		
			Emrich declaration, Dkt. 341-3 at		
			para.34, 39. This information about		
			ATLAS Rules is analogous to privileges		
			the court upheld at Dkt. 320, page 6		
		These redactions appear to pertain to	(citing to declaration paragraph		
		ATLAS rules, which is a USCIS	regarding FDNS-DS when upholding		
		internal system. USCIS internal	privilege redactions of databases,		
		processes and procedures are non-	including USCIS databases that interact		
	7	privileged.	with third agencies).		
, privileges. With time agencies).					
2					
² The January 27, 2020 privilege log states, "This document provides operational details about automated					
screening tools used by USCIS to more quickly identify cases with potential national security concerns.					
The automated screening tools create System Generated Notifications (SGNs) in FDNS-DS when certain					
criteria are met, and the SGNs are then reviewed by USCIS officials to determine whether further					
investigation is warranted. The withheld information includes the names of third-party-agency databases					
which are checked by the automated screening tool, the information contained in the third-party agency					
databases which may trigger an SGN, and technical instructions to the USCIS officials who review the					

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The January 27, 2020 privilege log states, "This document provides operational details about automated screening tools used by USCIS to more quickly identify cases with potential national security concerns. The automated screening tools create System Generated Notifications (SGNs) in FDNS-DS when certain criteria are met, and the SGNs are then reviewed by USCIS officials to determine whether further investigation is warranted. The withheld information includes the names of third-party-agency databases which are checked by the automated screening tool, the information contained in the third-party agency databases which may trigger an SGN, and technical instructions to the USCIS officials who review the SGNs about how to enter information into FDNS-DS. FDNS-DS is a USCIS database containing information about individuals under USCIS investigation for fraud, public safety, and national security concerns. Thus, disclosure of this information would reveal the structure and content of third-party-agency databases, including codes used in those databases to identify potential pational security froncerns. CIVIL DIVISION, OIL REVIEW (No. 2:17-cv-00094-RAJ) - 30

REVIEW (No. 2:17-cv-00094-RAJ) - 30

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		These block redactions pertain to USCIS's incorporation and use of information generated by a non-USCIS program, the Targeted Group of Inadmissible Subjects. As with the use of information from the Automated Targeting System, USCIS's internal processes and procedures for the use of	See Jan. 27 Privilege Log. ³ Further, these redactions were described in detain the Emrich declaration, Dkt. 341-3 a para. 34, 39. This information about ATLAS Rules is analogous to privileg the court upheld at Dkt. 320, page 6 (citing to declaration paragraph regarding FDNS-DS when upholding privilege redactions of databases, including USCIS databases that interactions
		USCIS's incorporation and use of	para. 34, 39. This information about
		•	
		of information from the Automated	
		processes and procedures for the use of	including USCIS databases that interaction
		such systems, including via USCIS's own ATLAS system, are non-	with third agencies). Additionally, pp 11, 14-18 describes "TGIS," which is
		Lown All AS system are non-	1 11 14-18 describes "ICTS" which is
	10.19		
	10-18	privileged.	CBP program, in detail.
Bates			
Bates Page	10-18 PDF Page	privileged.	
	PDF	privileged. DEF-00262796	CBP program, in detail.
	PDF	Plaintiffs' Comment Given that USCIS is a DHS	CBP program, in detail. Defendants' Comment Withheld information relates to foreig country information-sharing with
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the implementation of Executive Order	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld information is not USCIS information
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the implementation of Executive Order 13780 is directly relevant to Plaintiffs'	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld information is not USCIS information and is not related to CARRP; it is DHS
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the implementation of Executive Order 13780 is directly relevant to Plaintiffs' claims and is non-privileged to the	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld information is not USCIS information and is not related to CARRP; it is DHS information regarding the
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the implementation of Executive Order 13780 is directly relevant to Plaintiffs' claims and is non-privileged to the extent that it affects USCIS vetting and	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld information is not USCIS information and is not related to CARRP; it is DHS information regarding the implementation of EO 13780. Info
	PDF	Plaintiffs' Comment Given that USCIS is a DHS component, DHS guidance on the implementation of Executive Order 13780 is directly relevant to Plaintiffs' claims and is non-privileged to the	Defendants' Comment Withheld information relates to foreig country information-sharing with DHS/third agencies. Withheld information is not USCIS information and is not related to CARRP; it is DHS information regarding the

challenged law enforcement and deliberative process privilege redactions:

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In addition, revealing the specific manner in which USCIS officials review the SGNs and ensure proper information is put into FDNS-DS, and other detailed information about how to navigate FDNS-DS, creates a vulnerability to the system in the event of hacking or other intrusions into the system. The disclosure of this information would reveal substantial internal practices, techniques, and procedures used by USCIS in civil and law enforcement investigations related to immigration benefits fraud and national security issues, as well as the content and structure of third-party-agency databases, and such disclosure could reasonably be expected to risk circumvention of the immigration, criminal, and/or anti-terrorism laws."

³ See Footnote 2, above.

Table 4: Full List of Challenged Document Redactions

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Document PDF Page Numbers Containing Challenged Redactions Start Bates DEF-00004010 PDF Pages 3-8. DEF-00021130 PDF Pages 70, 72-75, 77-78, 127-28, and 179. DEF-00044548 PDF Pages 65, 74-78, 84, 89-91, and 114. DEF-00044891 (all redactions) DEF-00052177 PDF Pages 79-80, 115-20, and 164. DEF-0074376 (all redactions) DEF-00095009 PDF Pages 23-25. DEF-00096541 PDF Pages 1-5. DEF-00096701 PDF Pages 1-5. DEF-00116759 PDF Pages 113, 122,129-31, 134, 137, and 176. DEF-00132598 PDF Pages 12, 18-22. DEF-00174739 PDF Pages 1-3. DEF-00181890 PDF Page 5. DEF-00181912 PDF Pages 1-4. DEF-00184286 PDF Page 1, and 3-4. DEF-00184291 PDF Pages 1-3. DEF-00184306 PDF Pages 1-4. DEF-00261633 PDF Pages 2-7. DEF-00261640 PDF Pages 1-2. DEF-00262748 PDF Pages 1-4. DEF-00262793 PDF Page 1. DEF-00262796 PDF Pages 1-3.

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DEF-00263389	PDF Pages 1-2.
DEF-00266453	PDF Pages 1-2.
DEF-00267420	PDF Pages 1-2.
DEF-00280914	PDF Pages 5 and 7.
DEF-00285830	PDF Pages 1-10.
DEF-00329296	PDF Pages 7-8.
DEF-00373850 (Index 22)	PDF Page 121.
DEF-00429220	PDF Pages 31, 99, 103, 106-08, 110-112. 118, 124, 136-141, 153, 166-67, 191, 193-94, 211, 224, and 244-49.

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CERTIFICATE OF SERVICE 1 I hereby certify that on August 5, 2020, I electronically filed the foregoing with the Clerk 2 3 of the Court using the CM/ECF system, which will send notification of such filing to all counsel 4 of record. 5 6 /s/ Victoria M. Braga 7 VICTORIA M. BRAGA Trial Attorney 8 Office of Immigration Litigation 450 5th St. NW 9 Washington, DC 20001 Victoria.M.Braga@usdoj.gov 10 Phone: (202) 616-5573 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 U.S. DEPARTMENT OF JUSTICE JOINT SUBMISSION RE SCOPE AND VOLUME OF IN CAMERA